



Public Works Overview for Contractors

What is Public Works? - RCW 39.04.010

"Public work" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or any municipality [Snohomish School District], which is by law a lien or charge on any property therein. The term 'work' is very inclusive, especially in conjunction with 'construction, alteration, repair, or improvement'.

Examples of Public Work Contracts:

- All construction projects, large or small
- All building or building system repairs
- All infrastructure installations, repairs or removals

What is required of the Contractor on a Public Works Project?

1. Ensure you are registered and licensed to do business in Washington State.
2. Provide the Snohomish School District with a Certificate of Insurance.
3. Pay Prevailing Wages in accordance with RCW 39.12.
4. Ensure you are current on your Industrial Insurance Premiums with Labor and Industries.
5. Provide a Performance Bond and a Payment Bond for projects over \$50,000
6. Ensure that your Department of Revenue taxes are current.
7. Ensure that your Department of Employment Security taxes are current.
8. Ensure that you have completed Prevailing Wage and Public Works training with L&I to bid on public works projects unless granted an exception by L&I.

Contractor Registration and Licensing

Information about registration and licensing can be found at <https://www.lni.wa.gov/licensing-permits/contractors/register-as-a-contractor/>

Insurance Requirement

Prior to commencing work on a project, all contractors must provide the Snohomish School District with Certificate of Liability Insurance, with a \$1,000,000 per occurrence minimum, naming Snohomish School District as additional insured with the additional insured endorsement attached. Acceptable Additional Endorsement forms are CG 20 10 11 85 or CG 20 10 07 04 with the CG 20 37 07 04 attached. On larger projects, the district reserves the right to require higher limits of insurance.

Prevailing Wage Requirement – RCW 39.12

Contractors on public works projects, regardless of size, are required to pay their employees the prevailing wages for the county in which the work is being done. Wages are determined by the industrial statistician at the Department of Labor and Industries and can be located on the department's website at <https://lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>

Prior to commencement on the project, the contractor is required submit to the Department of Labor and Industries an Intent to Pay Prevailing Wages. These intents can be filed on the Department of Labor and Industries website at <https://lni.wa.gov/licensing-permits/public-works-projects/contractors-employers/contractor-portal>; there is currently a \$40 fee to file. The Snohomish School District cannot, by law, release any monies owed to the contractor until the Intent has been approved by the Department of Labor and Industries.

After completion of the project, the contractor shall submit to the Department of Labor and Industries an Affidavit of Wages paid. This affidavit can be filed on the Department of Labor and Industries website at <https://lni.wa.gov/licensing-permits/public-works-projects/contractors-employers/contractor-portal> for a fee of \$40. The Snohomish School District cannot release final payment to the contractor until the Affidavit has been approved by the Department of Labor and Industries.

For projects under \$2,500 (including tax), the district may accept the online Combined Intent/Affidavit of Prevailing Wages (no filing fee) provided there are no subcontractors on the project.

Posting Requirement - An approved copy of the Intent form for each employer must be posted at the job site prior to the commencement of work for contracts in excess of \$10,000. In the event that the Intent form is in the process of being approved by the

Industrial Statistician, the complete listing of the prevailing wage rates for the county where the job site is located may be posted until the approved form is received. Failure to meet these posting requirements is a violation of Chapter 39.12 RCW.

Industrial Insurance Premiums (Worker's Compensation)

Prior to commencing work on the project, the contractor must be current with their industrial insurance premiums. The district will verify this with the Department of Labor and Industries. If the contractor is not current with their industrial insurance premiums, the District will either halt the contract process or withhold monies due to the contractor until the premiums are paid in full. Further information on Industrial Insurance can be found at: <https://lni.wa.gov/claims/>

Performance Bond and Payment Bonds – RCW 39.08.010

Snohomish School District requests contractors obtain both a Performance Bond and a Payment Bond for each public works project over \$50,000 unless the district authorizes a waiver (only available on projects up to \$150,000). Snohomish School District requires separate Performance and Payment Bonds.

Performance Bonds – RCW 39.08.010 - The purpose of a performance bond is to guarantee that the contractor shall “faithfully perform all the provisions of such contract”.

Payment Bonds – RCW 39.08.010 – The purpose of a payment bond is to guarantee that the contractors shall “pay all laborers, mechanics and subcontractors and material suppliers”.

Provisions of a Bond:

- Ensure the amount of the bond is for the full contract price, including taxes.
- Name Snohomish School District as the obligee
- Ensure that you have the correct project name and number
- Ensure that the bond has been signed by both the surety (the Attorney in Fact) and your agency.
- Ensure your surety is authorized to do business in the State of Washington and are on the Insurance Commissioners List
- Ensure that your surety meets the AM Best rating required in the contract documents. If no requirement exists, a minimum of AM Best Rating of A-/VII or better is required.

Release of Bonds

Bonds will not be released until after completion of the project.

Payment Bonds – Payment Bonds will be released either 30 days after final acceptance of the project or upon receipt of releases from the Department of Revenue, Department of Employment Security and the Department of Labor and Industries, whichever is later. Release is contingent on the fact that no claims against the bond have been filed prior to that 30-day mark. If claims have been filed against the bond, it will not be released until the claims have been resolved.

Performance Bonds – Performance Bonds will be released at the end of the warranty period or 30 days after final acceptance, whichever is later.

Retainage – RCW 60.28.010

The District is required to hold retainage (a portion of the monies owed to the contractor) to ensure that all public works requirements have been met. The amount of retainage is affected by the amount of the project.

Projects \$0-\$10,000

On these projects the district will not hold retainage but will release the monies owed the contractor provided that the project is accepted and an approved Affidavit of Wages paid on file with Labor and Industries.

Projects \$10,000-\$50,000

Snohomish School District will retain 5% of the funds in a non-interest-bearing account for 30 days after final acceptance of the project. For projects over \$35,000 the district will release retainage funds after receipt of releases from the State Department of Revenue, Employment Security, and Labor & Industries as authorized by and subject to the conditions stated in RCW 39.08.010(3).

Projects \$50,000 and above

Snohomish School District will retain 5% of funds in a non-interest-bearing account, provided a performance bond and payment bond is provided (including sales tax). For projects between \$50,000 and \$150,000, if the contractor requests and district agrees to allow use of the alternative arrangement, the district will withhold 10% retainage until the later of 30 days after final acceptance of the project or until receipt of all necessary releases from the State Departments of Revenue, Employment Security, and Labor & Industries, as authorized by and subject to the conditions stated in RCW 39.08.010(3).

The minimum requirements for the bond are:

- ☒ The bond must be signed by a surety registered with the Washington State Insurance Commissioner and
- ☒ The surety must be on the currently authorized insurance list published by the Washington State Insurance Commissioner.
- ☒ Additional requirements as established by board policy